

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

**TRUSTEES OF THE CARPENTERS' HEALTH
AND WELFARE TRUST FUND OF ST. LOUIS,**

Plaintiffs,

-vs-

No. 05-CV-382 DRH

BRIAN BRUNKHORST and THOMAS C. RICH,

Defendants.

JUDGMENT IN A CIVIL CASE

DECISION BY COURT. This action came to hearing before the Court on Plaintiffs' motion for summary judgment.

IT IS ORDERED AND ADJUDGED that the Plaintiffs' motion is **GRANTED**. Judgment is entered in favor of Plaintiffs, **Terry Nelson, John Mulligan, Patrick J. Sweeney, III, and Renee Bell, Thomas Heinsz, John Fischer, Dave Caputa, Kenneth Stricker, James Schmid, Kirk Vereman, Al Bond and Angelo Lancia**, as Trustees of the Carpenters' Health and Welfare Fund of St. Louis, and against Defendants **Brian Brunkhorst** and **Thomas C. Rich** on Counts I, II and III of the First Amended Complaint.

The Court permanently **ENJOINS** Defendants Brian Brunkhorst, Thomas C. Rich and all those acting for or in concert with them from each and every

one of the following acts:

(a) Pursuing any claim against Plaintiffs or the Carpenters' Health and Welfare Trust Fund of St. Louis, or initiating any further proceeding concerning benefits payable by said Fund to Defendant Brian Brunkhorst, in an action styled ***Bryan Brunkhorst v. Landmark Tavern***, No. 02 L 38, in the Circuit Court for Randolph County, Illinois, or

(b) Attempting to enforce any order that may be issued against said Fund by the Circuit Court of Randolph County in said action, or

(c) Initiating or pursuing any other proceedings in state court under color of state law concerning benefits payable to Brian Brunkhorst from the Carpenters' Health and Welfare Trust Fund of St. Louis.

Further, the Court **ORDERS** Brian Brunkhorst to specifically perform his agreement to hold in trust, in accordance with the terms of the Plaintiffs' Plan Document, the settlement fund of \$21,000.00 received in an action styled ***Bryan Brunkhorst v. Landmark Tavern***, No. 02 L 38, in the Circuit Court for Randolph County, Illinois. The Court finds and declares (i) that Defendant Brunkhorst violated his fiduciary duties as trustee of said trust by causing trust assets to be disbursed to himself and others rather than being applied to the purposes of the trust; (ii) that the reimbursement obligation of Defendant Brunkhorst, which said trust was created to secure, remains unsatisfied in the amount of \$14,717.10; and (iii) that Plaintiffs have the right to withhold future Plan benefits from Defendant Brunkhorst, as a

setoff against the loss resulting from his failure to carry out the terms of said trust.

Also, the Court **FINDS** that Plaintiffs, as the Trustees of the Carpenters' Health and Welfare Trust Fund of St. Louis, are entitled to impose a charge on the beneficial interest of Defendant Brunkhorst in said Trust Fund, by withholding future benefits otherwise payable to him from said Trust Fund in order to recoup the unpaid balance of advances made to him from said Trust Fund in the amount of \$14,717.10.

NORBERT G. JAWORSKI, CLERK

June 14, 2006, 2006

By: s/Patricia Brown
Deputy Clerk

APPROVED: /s/ David RHerndon
U.S. DISTRICT JUDGE